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This opinion shall not "constitute precedent or be binding upon any court."  
Although it is posted on the internet, this opinion is binding only on the  
parties in the case and its use in other cases is limited. R.1:36-3.

SUPERIOR COURT OF NEW JERSEY  
APPELLATE DIVISION  
DOCKET NO. A-0570-14T1

NEW CENTURY FINANCIAL  
SERVICES, INC., CURRENT  
ASSIGNEE [CITIBANK, N.A. —  
THANKYOU, ORIGINAL CREDITOR],

Plaintiff-Respondent,

v.

CYNTHIA A. MANTINI,

Defendant/Third-Party  
Plaintiff-Appellant,

v.

PRESSLER & PRESSLER, RALPH  
GULKO, CITIBANK, NA, PILOT  
RECEIVABLES MANAGEMENT, LLC,  
LORI PRESSLER HERMAN, CAROL  
PRESSLER, CHRISTOPHER P.  
ODOGBILI,

Third-Party Defendants-  
Respondents.

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Submitted March 16, 2016 — Decided January 17, 2017

Before Judges Ostrer and Haas.

On appeal from the Superior Court of New  
Jersey, Law Division, Special Civil Part,  
Atlantic County, Docket No. DC-571-14.

Cynthia Cacioppo, f/k/a Cynthia A. Mantini,  
appellant pro se.

Pressler and Pressler, L.L.P., attorneys for  
respondent New Century Financial Services,  
Inc. (Lawrence J. McDermott, Jr., on the  
brief).

Marshall Dennehey Warner Coleman & Goggin,  
attorneys for respondent Citibank, N.A.  
(Joan P. Depfer and Walter F. Kawalec, III,  
on the brief).

The opinion of the court was delivered by  
OSTRER, J.A.D.

This is a debt collection case. Plaintiff, New Century Financial Services, Inc. (New Century), is the second assignee of a \$9,198.05 credit card debt initially due third-party defendant Citibank, NA. The debt arises from a credit card account Citibank issued to defendant, Cynthia Mantini, now known as Cynthia Cacioppo. Cacioppo argues the court erred in denying her motion for summary judgment, granting summary judgment to New Century, and dismissing the third-party complaint against Citibank, NA. We affirm.

The facts, as we discern them from the record, are straightforward. Defendant opened a credit card account with Citibank on May 1, 2001. According to monthly account statements, her last payment of \$195.69, made on December 28, 2009, left a balance due of \$7,524.03. Over several months, in

which she made no payments, the balance increased to \$9,173.05, as of the August 5, 2010 statement. A bill of sale and assignment, and a report of electronically transmitted information from Citibank, reflect that Citibank sold defendant's final debt of \$9,198.05 to third-party defendant Pilot Receivables Management, LLC (Pilot) on March 25, 2013. (Apparently, Citibank imposed an additional \$25 fee before assigning the debt.) A similar document shows that Pilot assigned the same debt to New Century on December 9, 2013. The following month, New Century filed its complaint in Special Civil Part, seeking to recover the \$9,198.05 amount due on defendant's defaulted account.

Without burdening this opinion with a complete review, we note that Cacioppo, proceeding pro se, responded to New Century's complaint with multiple pre-answer discovery requests, motions, and pleadings. Before filing her answer, she contended she was entitled to summary judgment because New Century failed to respond timely to her discovery requests, particularly her requests for admissions of various self-serving statements, which therefore laid a foundation for such relief. In her counter-claim and third-party complaint, Cacioppo alleged that New Century, Citibank and others engaged in a broad conspiracy

to issue credit to persons who did not deserve it, transfer the resulting debt, and wrongfully attempt to collect it.

On April 3, 2014, the trial court denied Cacioppo's motion. The court held that New Century was not obliged to respond to Cacioppo's discovery demands until she filed her answer. However, New Century had served Cacioppo with its responses to discovery in mid-March. In its response to Cacioppo's requests for admission, New Century denied many of Cacioppo's self-serving statements or objected to the requests as improper or calling for legal conclusions. Cacioppo filed her answer on April 3, 2014, which included a general denial. As affirmative defenses, she alleged the debt was satisfied and challenged the validity of the assignment.

By separate orders entered in May 2014, the court granted New Century's motion to dismiss the counterclaim, and Citibank's motion to dismiss the third-party complaint. In particular, Citibank argued that Cacioppo's third-party complaint consisted of broad, generalized allegations that failed to fairly apprise Citibank of the alleged claims, and that the claims failed to assert viable causes of action.

In June 2014, New Century sought summary judgment. In a supporting certification, New Century's business development manager, Marko Galic, stated that he was familiar with New

Century's business and records, and attached what he asserted were true and accurate copies of the record of Cacioppo's debt, which were electronically transmitted by Citibank; the bills of sale and assignments of the debt from Citibank to Pilot, and from Pilot to New Century; and multiple monthly Citibank account statements. The motion was also supported by a statement of material facts.

As best we can tell, Cacioppo did not file a written response to the statement of material facts, nor did she file a responsive certification. Instead, she sought to re-litigate previous motions. At oral argument, Cacioppo challenged the authenticity of the business records presented by New Century. However, the record includes only her bald denial of her indebtedness, and, the less definitive statement that "[t]o the best of [her] recollection[,] she was not in default. She provided no competent evidence to dispute the fact that she was indebted to Citibank in the amount of \$9,198.05, or that the debt was assigned, ultimately, to New Century. The court granted New Century's motion for summary judgment.

On appeal, Cacioppo presents the following points for our consideration:

POINT ONE

THE COURT IS REQUIRED OTHER THAN IN UNUSUAL CIRCUMSTANCES TO COMPLY WITH THE RULES OF COURT.

POINT TWO

THE COURT COMMITTED PREJUDICIAL REVERS[IBLE] ERROR IN FAILING TO GRANT DEFENDANT'S MOTION FOR SUMMARY JUD[G]MENT.

A.[ ] THE MOTION WAS TIMELY.

B.[ ] FAILURE OF THE PLAINTIFF TO O[B]JECT TO THE MOTION FOR SUMM[ ]ARY JUDG[ ]MENT BY SUBMITTING A SEPARA[ ]TE STATEMENT OF DISPUTED MATERIAL FACTS REQUIRED THE COURT UPON A SHOWING BY MOVING PARTY THAT THERE WAS NO CONTESTED ISSUES.

C. UNLESS A PLAINTIFF CAN SUBMIT ADMISSIBLE EVIDENCE TO SUPPORT EACH ELEMENT OF A CAUSE OF ACTION OR COUNT, IT[ ]S COMPLAINT MUST BE DISMISSED.

D. PLAINTIFF HAD THE BURDEN TO SUBMIT PROOF OF ITS CLAIMS.

POINT THREE

THE COURT COMMITTED REVERS[IBLE] ERROR BY FAIL[ING] TO ADJUDICATE DEFENDANT'S SECOND MOTION FOR SUMMARY JUDGMENT ON ITS MERITS.

POINT FOUR

PLAINTIFF'S OWN MOT[I]ON FOR SUMMARY J[UD]GMENT GRANTED ON JULY 2, 2014 WAS VOID IN THAT THE COURT PREVIOUSLY DENIED DEFENDANT HER DUE PROCESS AND EQUAL PROTECTION CONSTIT[ ]UTIONAL RIGHT BY NOT ENTERTAINING HER TWO MOTIONS FOR SUMMARY JUDGMENT ON THEIR MERITS.

BY FAILING TO RESPOND TO DULY AND TIMELY SERVED REQUESTS FOR ADMISSIONS, PLAINTIFF IS DEEMED TO HAVE ADMITTED EACH AND EVERY ONE OF THEM.

POINT FIVE

THE COURT COMMITTED PREJUDICIAL REVERSIBLE ERROR IN FAILING TO ENFORCE DEFENDANT'S RIGHT TO DISCOVERY.

DEFENDANT WAS IS [sic] ENTITLED TO PROPOUND AND RECEIVE RESPONSES TO WRITTEN DISCOVERY.

THE PARTY WHOM PROPOUNDED DISCOVERY THAT HAS NOT BEEN RESPONDED TO, MAY MOVE IN THE ALTERNATIVE FOR AN ORDER DISMISSING OR SUPPRESSING THE PLEADINGS OF THE DEFAULT PARTY OR PARTIES.

POINT SIX

THE ENTIRE PROCEEDINGS AFTER ERRANT RULING THAT SUMMARY JUDGMENT AND INITIATION OF DISCOVERY COULD NOT BE MADE UNTIL AFTER AN ANSWER WAS FILED WERE FRUITS OF A POISONOUS TREE.

POINT SEVEN

THE COURT COMMITTED PREJUDICIAL REVERSIBLE ERROR DENYING [ ]COUNTER COMPLAINANT THE OPPORTUNITY TO AMEND THE COUNTER COMPLAINT AFTER IT WAS DISMISSED.

A COMPLAINT IS TO BE LIBERALLY GRANTED IN NEW JERSEY.

POINT EIGHT

THE SUM TOTAL OF THE COURT'S MANY ERRORS AMOUNTED TO A DENIAL OF DEFENDANT'S CONSTITUTIONAL RIGHT TO DUE PROCESS AND EQUAL PROTECTION OF THE LAW ARE REQUIRES REVERSAL.

We review de novo the trial court's grant of summary judgment. Henry v. N.J. Dep't of Human Servs., 204 N.J. 320, 330 (2010). We determine whether the moving party has demonstrated the absence of genuine issues of material fact and whether the trial court has correctly determined that the movant is entitled to judgment as a matter of law, owing no deference to the trial court's legal conclusions. N.J. Dep't of Env'tl. Prot. v. Alloway Twp., 438 N.J. Super. 501, 507 (App. Div.), certif. denied, 222 N.J. 17 (2015). Applying that standard, we conclude, as did the trial court, that New Century was entitled to summary judgment. New Century conclusively established that it owned Cacioppo's credit card debt, and that the amount due was the amount sought. See New Century Fin. Servs., Inc. v. Oughla, 437 N.J. Super. 299, 304 (App. Div.), certif. denied, 218 N.J. 531 (2014).

Cacioppo's arguments to the contrary lack sufficient merit to warrant discussion in a written opinion. R. 2:11-3(e)(1)(E). We only add that it is of no consequence that the trial court erred in opining, early in the case, that a defendant's discovery demands must always await the filing of an answer. A trial judge is nonetheless vested with the discretion to control the timing and sequence of discovery. See Mernick v. McCutchen, 442 N.J. Super. 196, 200 (App. Div. 2015); see also R. 4:10-4.



The Special Civil Part is intended to provide a process for the inexpensive and expeditious disposition of relatively minor cases. See Lettenmaier v. Lube Connection, Inc., 162 N.J. 134, 143-44 (1999). Therefore, a trial court may, in its discretion, determine that an answer should precede discovery, on the ground that the answer may narrow the appropriate areas of inquiry.

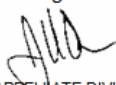
We also review de novo the trial court's dismissal of the third-party complaint and counter-claim under Rule 4:6-2. See Rezem Family Assocs., L.P. v. Borough of Millstone, 423 N.J. Super. 103, 114 (App. Div.), certif. denied and appeal dismissed, 208 N.J. 366 (2011). Although we search a complaint with "liberality to ascertain whether the fundament of a cause of action may be gleaned[,]" Printing Mart-Morristown v. Sharp Electronics Corp., 116 N.J. 739, 746 (1989) (citation omitted), a complaint must still "fairly apprise an adverse party of the claims and issues to be raised at trial." Dewey v. R.J. Reynolds Tobacco Co., 121 N.J. 69, 75 (1990) (internal quotation marks and citations omitted). Cacioppo's non-specific allegations of a conspiracy to issue unwarranted credit and to transfer and collect on the resulting credit falls short of presenting facts to support the basic elements of the causes of action alleged. We also discern no error in the trial court's determination to dismiss Cacioppo's affirmative pleading with

prejudice, since she has provided no basis to suggest she could cure the defects in her pleading. See Nostrame v. Santiago, 213 N.J. 109, 127-28 (2013).

Cacioppo's remaining points lack sufficient merit to warrant discussion in a written opinion. R. 2:11-3(e)(1)(E).

Affirmed.

I hereby certify that the foregoing  
is a true copy of the original on  
file in my office.

  
CLERK OF THE APPELLATE DIVISION